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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/814,431	03/30/2004	Alexei Kojenov	SJO920030085US1	5731
46917 7590 01/15/2009 KONRAD RAYNES & VICTOR, LLP. ATTN: IBM37 315 SOUTH BEVERLY DRIVE, SUITE 210 BEVERLY HILLS, CA 90212				
EXAMINER				
DAYE, CHELSEA L				
ART UNIT		PAPER NUMBER		
2161				
NOTIFICATION DATE		DELIVERY MODE		
01/15/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

krvuspto@ipmatters.com

Office Action Summary

Application No.

10/814,431

Applicant(s)

KOJENOV ET AL.

Examiner

CHELCIE DAYE

Art Unit

2161

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

1. This action is issued in response to applicant's amendment filed October 31, 2008.
2. Claims 1-3 and 5-12 are presented. No claim added and claims 4 and 13-36 remain cancelled.
3. Claims 1-3 and 5-12 are pending.
4. Applicant's arguments filed October 31, 2008, have been fully considered but they are not persuasive.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. **Claims 1,3, and 5-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon (US Patent No. 6,098,074) filed October 29, 1997, in view of Patterson (US Patent Application No. 2003/0182326) filed March 19, 2002.**

Regarding Claim 1, Cannon discloses a data management method, comprising:

backing up contents of a source device at a first client station as at least one object of a database stored in a data storage subsystem wherein the at least one object represents an image of the contents of the source device (column 13, lines 50-67 and columns 16-17, lines 55-67 and 1-14, respectively, Cannon) and wherein the images of the contents of the source device includes a plurality of files and a file directory of the source device (column 4, lines 41-46 and column 7, lines 8-12, Cannon);

using the database, tracking attributes and location of the at least one object in the database (column 7, lines 53-64 and column 9, lines 31-41, Cannon);

using the at least one object, restoring the contents of the source device from the at least one object to a target file in a file system stored on a storage device so that the target file contains said contents of the source device including said plurality of files and said file directory of the source device (column 14, lines 1-13 and column 17, lines 18-44, Cannon), wherein said file system comprises a plurality of files and an address table identifying the location of each file on said storage device (column 4, lines 41-46, Cannon); and

copying the restored contents of the source device from the single target file to a target device so that the target device contains the contents of the source device (column 14, lines 41-67, Cannon). While the examiner believes that the Cannon reference does in fact teach that the files and file directory of the source device are restored to a target file. Cannon is not as detailed and specific as the

examiner would like. On the other hand, Patterson discloses restoring the plurality of files and file directory of the source device to a target file ([0049-0052], Patterson). It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Patterson's teachings into the Cannon system. A skilled artisan would have been motivated to combine in order to provide a more optimized system of managing a plurality of different client stations with stored content. Thereby, allowing for a better backup and restorable service.

Regarding Claim 3, the combination of Cannon in view of Patterson, disclose the method wherein the target file contains the complete contents of the source device (column 17, lines 6-14, Cannon).

Regarding Claim 5, the combination of Cannon in view of Patterson, disclose the method wherein the data storage subsystem includes a server coupled to the first client station by a network (column 4, lines 9-20, Cannon).

Regarding Claim 6, the combination of Cannon in view of Patterson, disclose the method further comprising, using the at least one object, restoring the contents of the source device from the at least one object to a target device so that the target device contains the contents of the source device (column 14, lines 1-13 and column 17, lines 18-44, Cannon).

Regarding Claims 7 and 8, the combination of Cannon in view of Patterson, disclose the method wherein the source raw storage device is a logical volume of at least one magnetic disk drive (column 4, lines 59-62, Cannon).

7. Claims 2, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon (US Patent No. 6,098,074) filed October 29, 1997, in view of Patterson (US Patent Application No. 2003/0182326) filed March 19, 2002, further in view of Maurer (US Patent Application No. 20030065780) filed September 27, 2002.

Regarding Claim 2, the combination of Cannon in view of Patterson, disclose all of the claimed subject matter as stated above. However, Cannon and Patterson are silent with respect the target file being stored on storage media at a second client station. On the other hand, Maurer discloses the target file being stored on storage media at a second client station ([0108-0109], Maurer). Cannon, Patterson, and Maurer are analogous art because they are from the same field of endeavor of data restoration. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Maurer's teachings into the Cannon and Patterson system. A skilled artisan would have

been motivated to combine in order to store the needed data on an alternate location, such that if/when one location fails the needed data is not lost, but instead located elsewhere. As a result, allowing for a better recovery system.

Regarding Claim 9, the combination of Cannon in view of Patterson, further in view of Maurer, disclose the method wherein the source raw storage device is a partition of a magnetic disk drive ([0053], Maurer).

Regarding Claim 11, the combination of Cannon in view of Patterson, further in view of Maurer, disclose the method wherein said target file is a flat file ([0074], Maurer).

8. Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cannon (US Patent No. 6,098,074) filed October 29, 1997, in view of Patterson (US Patent Application No. 2003/0182326) filed March 19, 2002, further in view of Maurer (US Patent Application No. 20030065780) filed September 27, 2002, and further in view of “Logical vs. Physical File System Backup”, By: Hutchinson, Published: 1999; referred to hereinafter as ‘Hutchinson’.

Regarding Claim 10, the combination of Cannon in view of Patterson, further in view of Maurer, disclose the method further comprising mounting the

source device ([0079], Maurer). However, Cannon in view of Patterson, further in view of Maurer, are silent with respect to the source device being a read only device wherein write operations to said source device are prevented during said backing up of said source device. On the other hand, Hutchinson discloses the source device being a read only device wherein write operations to said source device are prevented during said backing up of said source device (pg.3, column 2, 1st full paragraph, Hutchinson). Cannon, Patterson, Maurer, and Hutchinson are analogous art because they are from the same field of endeavor of system backup/restore. It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate Hutchinson's teachings into the Cannon, Patterson, and Maurer system. A skilled artisan would have been motivated to combine as suggested by Hutchinson at pg. 2, column 2, in order to provide system history and increase resilience to disasters, which means that it is important that the format used to store data must be archival in nature. As a result, maximizing the speed for data backup and minimizing the resources that are used in performing the backup.

Regarding Claim 12, the combination of Cannon in view of Patterson, further in view of Maurer, and further in view of Hutchinson, disclose the method wherein said copying uses the UNIX dd command (pg.3, 2nd full paragraph, lines 5-9, Hutchinson).

Response to Arguments

Applicant's arguments with respect to the newly amended claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Points of Contact

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHELCIE DAYE whose telephone number is (571)272-3891. The examiner can normally be reached on M-F, 7:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Apu Mofiz can be reached on 571-272-4146080. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chelcie Daye
Patent Examiner
Technology Center 2100
January 9, 2009

/Apu M Mofiz/
Supervisory Patent Examiner, Art Unit 2161